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September 10, 1985

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Timothy H. Butler, Esq.
Lindquist & Vennum
4200 IDS Center
Minneapolis, Minnesota 55402

Re: U.S.A., et al. v. Reilly
Tar & Chemical Corp., et al.

Dear Tim:

At our meeting of August 28, we promised to give you Reilly's written reaction to your letter of August 13. For convenience, I will restate our views with respect to the points raised in your letter of August 13.

(1) The proposed reference (p. 1) to the indemnity agreement given by St. Louis Park is acceptable to Reilly, but should also reference the indemnity agreements given to other defendants.

(2) The broadening of the disclaimers (p. 2) to include all defendants is acceptable to Reilly.

(3) We sympathize with the concern expressed on p. 2 and elsewhere that the implementation of the RAP may or may not result in damage or inconvenience to the near-by landowners such as your client. Under the Consent Decree as agreed upon between Reilly, the United States, the State and the City, Reilly is responsible for restoring the property to its original condition and St. Louis Park has assumed this responsibility in its agreement with Reilly. If implementation of the remedial action plan results in additional economic loss or amounts to a "taking" for which

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the landowners are entitled to compensation under the Constitution, the responsibility lies with the governmental agencies who have required this plan or with St. Louis Park or its HRA who gave certain indemnities to the landowners.

(4) With respect to the landowners' power to have input into the location of wells, etc. (p. 2), Steve Shakman has proposed some language, which is enclosed.

(5) The question whether the words "without compensation therefor" (p. 3) should be deleted from page 54 is necessarily connected with item (3) above, and will presumably be resolved in connection with item (3).

(6) I understand that all parties are in agreement with the point (p. 3) that the notice period may be reduced to thirty days from receipt of notice. Steve Shakman has suggested the following language to be added to the first full paragraph on p. 53:

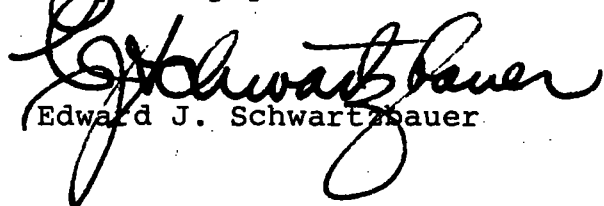
"No such conveyance shall occur
for at least thirty (30) days after
receipt of such notice."

Also, delete the words on that page which read "at least ninety (90) Days" and delete the comma after "conveyance."

(7) With respect to the questions concerning replacing excavated soils (p. 5), Steve Shakman has proposed some language, which is also enclosed for your review.

I believe that the foregoing responds to the concerns which were expressed in your letter and at our meeting of August 28. I am sending a copy of this letter to all counsel so that they may advise Becky or me whether the changes proposed above are acceptable to their respective clients.

Very truly yours,


Edward J. Schwartzbauer

EJS:ml
Enclosure

cc: All Counsel of Record
The Honorable Crane Winton

Add to end of paragraph 11.4.3.(A)(5), p. 73 of RAP

Under appropriate circumstances, plans may be submitted to the Regional Administrator and the Director for replacing small amounts of contaminated soils on the site. Such plans may propose that for minor disturbances of the soil, such as utility line construction, repair or replacement, the material removed be replaced in approximately its original location prior to the disturbance and be covered by clean soil to a depth of at least twelve (12) inches. A refusal by the Regional Administrator or the Director to permit such replacement of contaminated soil shall be subject to review under the Consent Decree.

Add to the end of Part P on page 54.

In the event that access is required to any of the properties above named, Reilly shall provide the owner reasonable advance notice and opportunity for consultation. Consistent with the purposes for which access is needed, Reilly shall make best efforts to minimize disruption to current use and enjoyment of the property. Disputes between Reilly and the property owner concerning access shall be subject to dispute resolution under Part I.